IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.8986 OF 2004

Chandrakant Pandurang Kamble .... Petitioner
Vs.
Vinod Narayandas Rajput & Anr. .... Respondents

Shri J.P. Shetty for Ms Suhasini Mutalik
for the Petitioner.

None present for the Respondents.

CORAM: R.M.S. KHANDEPARKAR, J.

DATED: NOVEMBER 03, 2004

P.C:

1. Heard the learned Advocate for the petitioner.

2. The respondents had sought to challenge the eviction of the petitioner on the ground of default in payment of rent as well as on the ground of bona fide and reasonable need for personal occupation of the premises. The trial Court had decreed the suit on both the counts. The petitioner sought to challenge the decree in relation to eviction on the ground of bona fide need of the premises as well as default in payment of rent. However, when the matter came up for hearing before the lower Appellate Court, the petitioner gave up the challenge to the finding regarding default in payment of rent and restricted the challenge to the issue relating

to bona fide need of the premises for the respondents. The learned Advocate for the petitioner submitted that the lower Appellate Court did not consider the issue in relation to the bona fide need as well as the hardship in the manner it was required to be dealt with and in improper exercise of its jurisdiction rejected the appeal. Irrespective of the fact that the lower Appellate Court might not have considered the issue in relation to the bona fide need in the manner it was required to be considered, fact remains that the trial Court had ordered the eviction of the petitioner, apart from bona fide need of the premises to the respondents, on the ground of default in payment of rent and the petitioner had given up the challenge to the said ground before the lower Appellate Court. Once the petitioner had accepted the eviction order on the ground of default in payment of rent, the challenge to the eviction in relation to the bona fide need does not survive as the landlord is entitled to seek eviction on any one ground available under the statute and need not seek eviction on all the grounds on which the application was filed or the decree was passed. Once the eviction order was confirmed on the ground of default in payment of rent, there is no case for interference in the impugned order in writ jurisdiction. On a clear admission on the part of the petitioner about non-challenge to the eviction decree on the ground of default in payment of rent

itself justify the rejection of the petition in limine. Hence the petition is hereby rejected.

3. On oral request by the learned Advocate for the petitioner, time to vacate the suit premises is extended till 30-4-2005, subject to submitting undertaking by the petitioner and every major member of the petitioner's family as well as those occupying the premises, to be filed before the Registrar (Judl.) of this Court within four weeks from today assuring that the petitioner shall handover the vacant and peaceful possession of the suit premises to the respondents/landlord on or before 30-4-2005 and shall not induct any third person nor shall create any third party interest in the suit premises.